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CLERK OF DISTRICT COURT
SALT LAKE CITY, UTAH

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF UTAH

PHILLIP M. ADAMS & ASSOCIATES,
L.L.C., a Utah Limited Liability Company,

Plaintiff,

vs.

LENOVO INTERNATIONAL, SONY
CORPORATION, SONY COR-
PORATION OF AMERICA, DELL INC.,
MPC COMPUTERS, LLC, AND
FUJITSU SIEMENS COMPUTERS
GmbH,

Defendants.

**COMPLAINT
FOR PATENT INFRINGEMENT**

Civil No. _____

Honorable _____

Magistrate _____

Judge Ted Stewart
DECK TYPE: Civil
DATE STAMP: 05/12/2005 @ 15:48:52
CASE NUMBER: 1:05CV00064 TS

Plaintiff Philip M. Adams & Associates, L.L.C. ("Adams") complains of defendants
Lenovo International, Sony Corporation, Sony Corporation of America, Dell Inc., MPC

Computers, LLC and Fujitsu Siemens Computers GmbH (collectively "defendants") as follows:

JURISDICTION AND VENUE

1. This Complaint states claims for patent infringement arising under the patent laws of the United States, Title 35 of the United States Code. This Court has exclusive jurisdiction over the subject matter of the Complaint under 28 U.S.C. § 1338(a). Venue is proper in this district under 28 U.S.C. §§ 1391(c)-(d) and 1400(b).

PLAINTIFF

2. Adams is a Utah limited liability company with an address of P.O. Box 1207, Bountiful, Utah 84011. Adams owns all right, title and interest in and has standing to sue for infringement of the United States patents identified below:

- **5,379,414**, "System and Methods for FDC Error Detection and Prevention" ("the '414 patent");
- **5,983,002**, "Defective Floppy Diskette Controller Detection Apparatus and Method" ("the '002 patent"); and
- **6,401,222**, "Defective Floppy Diskette Controller Detection Apparatus and Method" ("the '222 patent")

(collectively, the "patents-in-suit").

3. Dr. Philip M. Adams heads plaintiff Adams. He has a Ph.D. in applied computer science, a D.Sc. in engineering and 30 years of experience in the computer industry. Dr. Adams has served on the faculty of major universities and holds numerous patents. In the late 1980s, Dr. Adams characterized a defect in NEC 765a compatible floppy disk controllers present in most personal computers. This defect causes the random

destruction or corruption of data without proper notification to the user that data has been destroyed or corrupted.

4. The random destruction or corruption of data in computers is a serious, and potentially cataclysmic, problem. Computers are used throughout society, and the data integrity of computers is the lifeblood of the information age. The public relies upon the integrity of data stored by computers and exchanged between them to support virtually all aspects of society, including the multitude of financial transactions, the accurate and effective diagnoses and treatment of illnesses and the proper design and construction of automobiles, aircraft, bridges, dams, office buildings and various other structures and devices.

5. The scope and seriousness of the defects discovered by Dr. Adams was recently illustrated by the \$2.1 billion *Toshiba* class-action settlement in the Eastern District of Texas. In addition to the *Toshiba* class-action settlement, the United States Government recently settled False Claims Act claims against *Toshiba* for \$33.5 million. The State of California settled California State False Claims Act claims against *Toshiba* for \$33 million. Also, several billion-dollar class-action lawsuits are presently pending against different computer companies in various federal and state courts because of such defects built into various computers.

6. In the 18 years since Dr. Adams discovered the above-identified computer defect, Dr. Adams has discovered related data corruption defects and has devoted thousands of hours to developing a solution, alerting various federal and state governments, computer companies and private purchasers to such defects and assisting computer manufacturers to acknowledge and remedy these defects. In addition, Dr.

Adams has developed several patented computer technologies that address such defects. First, he developed patented computer technology (both hardware and software, as described and claimed in the patents-in-suit) that detects which computers are defective. Second, he developed patented solutions (both hardware and software, as described and claimed in the '414 patent) that fully resolve the defects found in such computers.

7. Hewlett Packard (one of the world's leaders in personal computers) recently accepted a license from Adams, and then placed Adams' solution on the Internet for all its customers throughout the world. Thus, any Hewlett Packard customer can go to this Internet website, download the solution and fully repair such defects in his or her computer. Compaq (before it merged with Hewlett Packard) also accepted a license.

RELATED CIVIL ACTION

8. Plaintiff, along with Dr. Philip M. Adams, brought suit in this district (Civil Action No. 2:02-CV-00106ST) against Gateway, Inc. for infringement of the above-identified patents-in-suit. That action remains pending and involves common legal issues.

DEFENDANTS

9. Defendant Lenovo is a Chinese corporation (registered in Hong Kong) with a place of business in the United States at 3030 Cornwallis Road, Raleigh, North Carolina 27709. Lenovo has other office locations in the United States and worldwide. The Court has personal jurisdiction over Lenovo because Lenovo transacts business in this judicial district and has committed tortious acts of patent infringement in this judicial district by using, selling or offering to sell products that infringe the patents-in-suit and/or by practicing methods covered by the patents-in-suit. Lenovo sells IBM personal computers and servers at CompUSA Inc. outlets and by means of the Internet in this judicial district.

10. Defendant Sony Corporation is a Japanese corporation with a principal place of business at 7-35 Kitashinagawa 6-chome, Shinagawa-ku, Tokyo 141-0001, Japan; defendant Sony Corporation of America is a New York Corporation with a principal place of business at 550 Madison Avenue, New York, New York 10022 (collectively "Sony"). The Court has personal jurisdiction over Sony because Sony transacts business in this judicial district and has committed tortious acts of patent infringement in this judicial district by using, selling or offering to sell products that infringe the patents-in-suit and/or by practicing methods covered by the patents-in-suit. Sony sells personal computers by means of the Internet in this judicial district.

11. Defendant Dell Inc. is a Texas corporation with a principal place of business at One Dell Way, Round Rock, Texas 78682. The Court has personal jurisdiction over Dell because Dell transacts business in this judicial district and has committed tortious acts of patent infringement in this judicial district by using, selling or offering to sell products that infringe the patents-in-suit and/or by practicing methods covered by the patents-in-suit. Dell sells personal computers by means of the Internet in this judicial district.

12. Defendant MPC Computers, LLC is an Idaho limited liability company with a principal place of business at 906 East Karcher Road, Nampa, Idaho 83687. MPC has other office locations in the United States and worldwide. The Court has personal jurisdiction over MPC because MPC transacts business in this judicial district and has committed tortious acts of patent infringement in this judicial district by using, selling or offering to sell products that infringe the patents-in-suit and/or by practicing methods covered by the patents-in-suit. MPC sells personal computers by means of the Internet in this judicial district.

13. Defendant Fujitsu Siemens Computers GmbH is a Netherlands corporation with a principal place of business at Otto-Hahn-Ring 6 81739 München Germany with a U.S. address of 1250 E. Arques Avenue, Sunnyvale, California., 95085-5401. Fujitsu Siemens has other office locations in the United States and worldwide. The Court has personal jurisdiction over Fujitsu Siemens because Fujitsu Siemens transacts business in this judicial district and has committed tortious acts of patent infringement in this judicial district by using, selling or offering to sell products that infringe the patents-in-suit and/or by practicing methods covered by the patents-in-suit. Fujitsu Siemens sells personal computers by means of the Internet in this judicial district.

DEFENDANT'S ACTS OF PATENT INFRINGEMENT

14. Defendants have infringed various claims of each of the patents-in-suit in violation of 35 U.S.C. § 271 through, among other activities, the manufacture, use, importation, sale and/or offer for sale of computers, as described in more detail below. In addition to their direct infringement, defendants have also knowingly and intentionally induced others to infringe under 35 U.S.C. § 271(b) (such as its customers and end-users in this judicial district and throughout the United States) by intentionally aiding, assisting and encouraging their infringement, and defendants have knowingly contributed to the infringement of others under 35 U.S.C. § 271(c) (such as its customers and end-users in this judicial district and throughout the United States) by supplying their technical know-how and specially modified computers which are non-staple articles of commerce having no substantial non-infringing use. The infringement that has occurred is at least of claim 1 of the '414 patent, claims 1-6 and 8-15 of the '002 patent and claims 1-7, 9-16 and 18-20 of the '222 patent through commercialization of at least the following model computers:

- **Lenovo International** Model Nos. Netvista A20 (6270, 6279, 6266, 6286), Netvista A20i (2178, 2198, 6276, 6280-17R), Netvista A21 (6336, 6337, 6339, 6341, 6342, 6346, 6347, 6348), Netvista A21i (2256, 2257), Netvista A60 (6848), IBM Server Series, and IBM 2169;
- **Sony Corporation** Model Nos. PCV-L6xx SlimTops, PCV-L8xx SlimTops, PCV-RS530G, PCV-J150, and PCV-RS510;
- **Dell Inc.** Model Nos. Inspiron 5150 (Compal), Compal, and Quanta;
- **MPC Computers, LLC** Model Nos. ClientPro Series and Millennia Series (MBD001154-00, MBD001136-02, MBD001136-01, MBD001136-00, MBD001131-01, MBD001131-00, MBD001130-01, MBD001130-00, MBD001125-05, MBD001125-04, MBD001125-03, MBD001125-02, MBD001125-01, MBD001125-00, MBD001123-00, MBD001119-00, MBD001111-02, MBD001111-01, MBD001111-00, MBD001110-00, MBD001106-00, MBD001103-00); and
- **Fujitsu Siemens Computers GmbH** Model Nos. ErgoPro eD, Scenic, Thin Client, Motherboards, AMILO M75400 EB2I, and AMILO M75400 EB2I;

15. Defendants' infringement has injured Adams, and Adams is entitled to recover damages adequate to compensate it for such infringement, but in no event less than a reasonable royalty.

NOTICE AND WILLFULNESS

16. Defendants have had actual and/or constructive notice of their infringement of the patents-in-suit, including actual pre-complaint notice.

17. Defendants' infringement has been willful and deliberate as to the patents-in-suit and has occurred with knowledge of those patents in violation of 35 U.S.C. § 284 ¶ 2. Defendants' infringement has injured and will continue to injure Adams, unless and until this Court enters an injunction prohibiting further infringement and, specifically, enjoining further manufacture, use, importation, offers for sale and/or sale of Defendants' products and/or services that fall within the scope of the patents-in-suit.

PRAYER FOR RELIEF

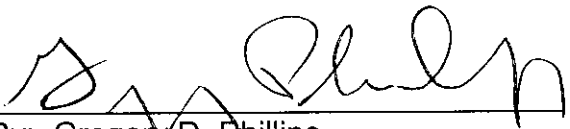
WHEREFORE, Adams respectfully requests this Court enter judgment against defendants and against their subsidiaries, affiliates, agents, servants, employees and all persons in active concert or participation with them, granting the following relief:

- A. An award of damages adequate to compensate Adams for the patent infringement that has occurred, together with prejudgment interest from the date infringement of each respective patent-in-suit began, and costs;
- B. An award to Adams of all remedies available under 35 U.S.C. § 284;
- C. A finding that this case is exceptional and an award to Adams of all remedies available under 35 U.S.C. § 285;
- D. A permanent injunction prohibiting further infringement, inducement and contributory infringement of the patents-in-suit; and,
- E. Such other and further relief as this Court or a jury may deem proper and/or just.

JURY DEMAND

Adams demands a trial by jury on all issues so triable.

NIRO, SCAVONE, HALLER & NIRO
HOWARD, PHILLIPS & ANDERSEN


By: Gregory D. Phillips

ATTORNEYS FOR THE PLAINTIFF

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

PHILLIP M. ADAMS & ASSOCIATES, L.L.C., a Utah Limited Liability Company

(b) County of Residence of First Listed Plaintiff Davis County
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorney's (Firm Name, Address, and Telephone Number)

Gregory D. Phillips, Kevin A. Howard, Howard Phillips & Andersen
560 E. 200 So., Suite 300, SLC, UT 84102 (801) 366-7471

DEFENDANTS

LENOVO INTERNATIONAL, et al.

County of Residence of First Listed Defendant Davis County
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff ☒ 3 Federal Question (U.S. Government Not a Party)
- ☐ 2 U.S. Government Defendant ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | PTF | DEF | | PTF | DEF |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input checked="" type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition		

V. ORIGIN (Place an "X" in One Box Only)

- ☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from another district (specify) ☐ 6 Multidistrict Litigation ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 35 USC § 271

Brief description of cause:

Patent Infringement

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 **DEMAND \$** 30,000,000.00 per defendant CHECK YES ONLY if demanded in complaint: **JURY DEMAND:** ☒ Yes ☐ No

VIII. RELATED CASE(S)

IF ANY Adams v. Gateway (See instructions):

JUDGE Stewart; Mag. Judge Nuffer

DOCKET NUMBER 2:02-CV-00106 TS

DATE

12 May 2005

SIGNATURE OF ATTORNEY OF RECORD

Gregory D. Phillips

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____

Judge Ted Stewart

DECK TYPE: Civil

DATE STAMP: 05/12/2005 @ 15:48:52

CASE NUMBER: 1:05CV00064 TS